

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EDWARD JAMES WILLARD,

Petitioner,

No. CIV S-04-0743 FCD DAD P

vs.

D. L. RUNNELS,

Respondent.

ORDER

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's May 12, 2008 denial of his application for a writ of habeas corpus. On June 2, 2008, petitioner filed a request to proceed in forma pauperis on appeal. The court file reflects that petitioner paid the filing fee for this action.¹

Rule 24(a) of the Federal Rules of Appellate Procedure provides that a party to a district court action who desires to appeal in forma pauperis on appeal must file a motion in the district court which:

////

////

¹ Petitioner is not required to obtain a certificate of appealability in order to prosecute this appeal. See Rosas v. Nielsen, 428 F.3d 1229, 1232 (9th Cir. 2005).

(A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs;

(B) claims an entitlement to redress; and

(C) states the issues that the party intends to present on appeal.

Fed. R. App. P. 24(a)(2). Petitioner has complied with the requirements of Fed. R. App. P. 24(a). Accordingly, his request to proceed in forma pauperis on appeal will be granted.

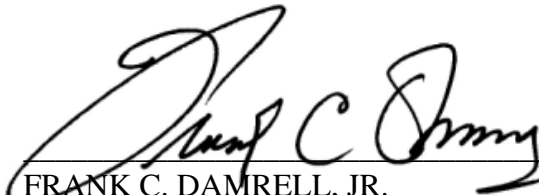
Petitioner has also filed a request for the appointment of counsel. This request will be denied without prejudice to its renewal in the Ninth Circuit Court of Appeals.

Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's June 2, 2008 request to proceed in forma pauperis on appeal is granted; and

2. Petitioner's May 21, 2008 request for the appointment of counsel is denied without prejudice to its renewal in the Ninth Circuit Court of Appeals.

DATED: June 6, 2008.


FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE